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PAGE 01

NC 56942

TOR:142307Z APR 76

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TAGS: EFIS, PL

SUBJECT: U.S. EXTENDS EXCLUSIVE FISHERIES JURISDICTION
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PAGE 02

NC 56942

TOR:142307Z APR 76

TO 200 MILES

1. ON APRIL 13 THE PRESIDENT SIGNED H.R. 200, THE FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976, EXTENDING THE EXCLUSIVE FISHERIES JURISDICTION OF THE UNITED STATES TO 200 MILES. ACT HAS FAR-REACHING IMPLICATIONS FOR ALL NATIONS WHICH FISH IN WATERS OFF U.S. COASTS.

2. COPIES OF ACT POUCED TO EMBASSIES IN COUNTRIES WITH WHICH U.S. HAS FISHERIES RELATIONSHIPS. AVAILABLE TO OTHER POSTS ON REQUEST. DEPT. WILL FORMALLY TRANSMIT COPY TO RELEVANT EMBASSIES IN WASHINGTON. CAPSULIZED DESCRIPTION MOST IMPORTANT PROVISIONS OF ACT FOLLOWS. ANALYSIS GEARED TO SPECIFIC COUNTRIES WILL FOLLOW SEPTELS.

3. SUMMARY DESCRIPTION OF ACT.

A. THE ACT ESTABLISHES A ZONE CONTIGUOUS TO THE TERRITORIAL SEA OUT TO 200 MILES IN WHICH THE UNITED STATES ASSUMES EXCLUSIVE FISHERIES MANAGEMENT AUTHORITY, EFFECTIVE MARCH 1, 1977, AND ASSERTS SUCH AUTHORITY OVER ANADROMOUS SPECIES (E.G. SALMON) OF U.S. ORIGIN AND CONTINENTAL SELF FISHERIES RESOURCES SEWARD OF THE ZONE. THIS AUTHORITY DOES NOT EXTEND TO HIGHLY MIGRATORY SPECIES (TUNA).

B. FOREIGN FISHING MAY BE PERMITTED AFTER MARCH 1, 1977 TO THE EXTENT OF ANY SURPLUS OVER THE HARVESTING CAPACITY OF U.S. FISHERMEN AND UNDER THE OPTIMUM YIELD FROM EACH FISHERY. THAT IS, THE SECRETARY OF COMMERCE AND REGIONAL COUNCILS ESTABLISHED BY THE ACT WILL SET THE TOTAL ALLOWABLE CATCH FOR EACH FISHERY AND DETERMINE WHAT PORTION OF THIS TOTAL WILL BE HARVESTED BY AMERICAN FISHERMEN. THE REMAINING SURPLUS WILL BE ALLOCATED AMONG FOREIGN FISHERMEN BY THE SECRETARY OF STATE, SUBJECT TO RESTRICTIONS SET BY THE SECRETARY OF COMMERCE. IN ALLOCATING THE SURPLUS TO FOREIGN FISHERMEN, THE SECRETARY OF STATE SHALL TAKE INTO CONSIDERATION TRADITIONAL FISHING ACTIVITY, WHETHER SUCH NATIONS HAVE COOPERATED IN MAKING SUBSTANTIAL CONTRIBUTIONS TO FISHERIES RESEARCH, COOPERATED IN ENFORCEMENT WITH RESPECT TO THE CONSERVATION AND MANAGEMENT OF FISHERY RESOURCES, AND SUCH OTHER MATTERS AS DEEMED APPROPRIATE. HOWEVER FOREIGN FISHING IN

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1		4	
2		5	
3		6	

T 840753 EIA536

PAGE 03

NC 56942

TOR:142307Z APR 76

THE ZONE OR FOR ANADROMOUS OR CONTINENTAL SHELF SPECIES IN OR BEYOND THE ZONE IS PROHIBITED AFTER MARCH 1, 1977 UNLESS CERTAIN CONDITIONS ARE MET, DESCRIBED BELOW.

C. IN THE CASE OF EXISTING BILATERAL AGREEMENTS THAT REMAIN IN FORCE ON MARCH 1, 1977 (WITH CANADA, SOUTH KOREA AND THE ATLANTIC COAST AGREEMENT WITH THE SOVIET UNION), THE PARTIES TO THE AGREEMENTS MUST OBTAIN QUOTE REGISTRATION PERMITS UNQUOTE FOR EACH VESSEL FROM THE SECRETARY OF STATE IN ORDER TO VERIFY THAT THEIR VESSELS ARE AUTHORIZED TO FISH. IN THE CASE OF CONTINUING MULTILATERAL TREATIES, QUOTE REGISTRATION PERMITS UNQUOTE WILL BE SIMILARLY REQUIRED. (THIS WILL INVOLVE SOME 18 NATIONS, INCLUDING JAPAN, CANADA, THE USSR, POLAND, THE FRG, SPAIN AND OTHERS.) PERMISSIVE AUTHORITY IS ALSO GRANTED TO THE SECRETARY OF STATE TO LEVY REASONABLE FEES TO RECOVER ADMINISTRATIVE COSTS.

D. IN THE CASE OF AGREEMENTS THAT EXPIRE BEFORE MARCH 1, 1977 (E.G. PACIFIC COAST AGREEMENTS WITH JAPAN, USSR AND POLAND), NO EXTENSION IS PERMITTED AND THE NATIONS INVOLVED MUST CONCLUDE NEW QUOTE GOVERNING INTERNATIONAL FISHERIES AGREEMENTS UNQUOTE THAT RECOGNIZE OUR JURISDICTION AS SET FORTH IN THE ACT, AND OBTAIN PERMITS FOR EACH VESSEL BY WHICH THE SECRETARY OF COMMERCE UNILATERALLY SETS THE TERMS AND CONDITIONS UNDER WHICH FISHING IS AUTHORIZED. THE QUOTE GOVERNING INTERNATIONAL FISHERIES AGREEMENTS UNQUOTE MUST BE IN FORCE ON MARCH 1, 1977. HOWEVER, THE ACT REQUIRES THAT THEY LIE BEFORE CONGRESS FOR 60 DAYS WHILE CONGRESS IS IN SESSION BEFORE THEY ENTER INTO FORCE.

E. WITH RESPECT TO THE PERMITS ISSUED BY THE SECRETARY OF COMMERCE, OPPORTUNITY IS PROVIDED FOR COMMENTS BY INTERESTED PARTIES WITH RESPECT TO THESE PERMITS. THE PROCEDURE IS EXTENSIVE AND DETAILED. ESSENTIALLY, THE SECRETARY OF STATE IS REQUIRED TO RECEIVE APPLICATIONS FROM FOREIGN COUNTRIES AND PUBLISH THEM IN THE FEDERAL REGISTER. REGIONAL COUNCILS ESTABLISHED UNDER THE ACT ARE ALLOWED 45 DAYS IN WHICH TO COMMENT ON THE APPLICATIONS AND THE SECRETARY OF COMMERCE, AFTER APPROPRIATE REVIEW AND AFTER CONSULTATION WITH THE

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	N			2	5
ACTION #	F			3	6
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T 840753

EIA536

PAGE 04

NC 56942

TOR:142307Z APR 76

SECRETARY OF STATE AND THE SECRETARY OF THE DEPARTMENT IN WHICH THE COAST GUARD IS LOCATED, SHALL APPROVE THE APPLICATION AND ESTABLISH THE SPECIFIC CONDITIONS AND RESTRICTIONS WHICH SHALL BE APPLICABLE TO EACH PERMIT. IN ADDITION, THE ACT PROVIDES FOR THE PAYMENT OF FEES BY FOREIGN VESSELS ISSUED PERMITS TO COVER THE COST OF RESEARCH, MANAGEMENT AND ADMINISTRATION OF THE LAW.

F. ANY FOREIGN FISHING VESSEL THAT DOES NOT HAVE ON BOARD A VALID PERMIT ISSUED UNDER AN EXISTING AGREEMENT OR A NEW GOVERNING AGREEMENT WILL BE SEIZED AND PROSECUTED. IN ADDITION FOREIGN OPERATORS AND VESSELS ARE SUBJECT TO ARREST, SEIZURES, FINES AND IMPRISONMENT FOR SUCH UNLAWFUL ACTS AS REFUSAL TO PERMIT U.S. ENFORCEMENT OFFICERS TO BOARD AND INSPECT THEIR VESSELS, FISHING WITHOUT A VALID PERMIT OR IN VIOLATION OF THE CONDITIONS STIPULATED IN THE PERMIT AND RESISTING ARREST. CRIMINAL OFFENSES ARE PUNISHABLE BY A FINE NOT MORE THAN 50,000 DOLLARS OR IMPRISONMENT OR BOTH, OR IN THE CASE WHERE A PERSON FORCIBLY RESISTS ARREST AND EITHER INJURES OR PLACES THE ARRESTING OFFICER IN DANGER OF PHYSICAL HARM, NOT MORE THAN 100,000 DOLLARS OR 1 YEAR IN PRISON, OR BOTH. IN ADDITION, CIVIL PENALTIES MAY BE IMPOSED, THEY INCLUDE FORFEITURE OF CATCH, GEAR, CARGO AND VESSEL.

G. PROVISION IS ALSO MADE WITH RESPECT TO THE U.S. DISTANT WATER FISHERIES, I.E., TUNA AND SHRIMP. SHOULD THE SECRETARY OF STATE BE UNABLE WITHIN A REASONABLE PERIOD OF TIME TO CONCLUDE AN INTERNATIONAL FISHERY AGREEMENT ALLOWING U.S. FISHING VESSELS ACCESS TO FISHERIES OVER WHICH OTHER NATIONS ASSERT EXCLUSIVE FISHERIES MANAGEMENT AUTHORITY RECOGNIZED BY THE UNITED STATES BECAUSE THAT NATION, AMONG OTHER THINGS, (1) REFUSES TO COMMENCE NEGOTIATIONS, (2) FAILS TO NEGOTIATE IN GOOD FAITH, (3) DENIES U.S. FISHERMEN THE OPPORTUNITY TO FISH FOR HIGHLY MIGRATORY SPECIES IN ACCORDANCE WITH INTERNATIONAL AGREEMENT, OR SEIZES U.S. VESSELS UNDER CERTAIN CONDITIONS, THE ACT PROVIDES FOR THE IMPOSITION OF IMPORT EMBARGOES ON FISH PRODUCTS FOR THE NATION INVOLVED. COMPENSATION TO U.S. FISHERMEN UNDER FISHER-

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ACTION #	F			3	6
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T 840753 EIA536 PAGE 05-05 NC 56942

TOR:142307Z APR 76

MEN'S PROTECTIVE ACT IS EXPANDED.
 3, THE ACT ALSO AUTHORIZES THE SECRETARY OF STATE TO SEEK AGREEMENT WITH NEIGHBORING COUNTRIES ON THE BOUNDARIES OF THE CONSERVATION ZONE OF THE UNITED STATES.
 I, FINALLY, THE ACT STATES THAT IF THE UNITED STATES RATIFIES A COMPREHENSIVE LAW OF THE SEA TREATY, THE SECRETARY OF COMMERCE, AFTER CONSULTATION WITH THE SECRETARY OF STATE, MAY PROMULGATE ANY SUCH CHANGES AS ARE NECESSARY TO CONFORM THE ADMINISTRATIVE REGULATIONS TO THE REQUIREMENTS OF THE TREATY.
 4, DEPARTMENT IS STUDYING IMPLICATIONS OF ACT ON EXISTING MULTILATERAL AND BILATERAL FISHERIES ARRANGEMENTS AND POSSIBLE COURSES OF ACTION TO FOLLOW IN IMPLEMENTATION OF LAW. WE EXPECT TO COMPLETE REVIEW BY EARLY MAY. POLICY GUIDANCE WILL BE ISSUED AT THAT TIME. KISSINGER

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